

Remarks

Applicant requests reconsideration of this application in view of the foregoing amendments and following remarks. Claims 1-11, 14, 17, 18, 22, 25-27, 30, 32, 34, and 36-48 are currently pending. Claims 1-47 have been canceled without prejudice. Therefore, upon entry of this amendment, claim 48 will be pending.

Allowed Claim

The Office action indicates that claim 48 has been allowed. Applicant agrees that claim 48 is allowable over the cited prior art.

Rejections under 35 U.S.C. § 112

Claims 1-11, 14, 17, 18, 22, 25-27, 30, 32, 34, and 36-47 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner contends that the terms “suitable for,” “does not bond,” and “can be used” are not positive statements and do not define patentable matter.

Applicant disagrees. The inclusion of negative limitations in a claim is proper, provided there is basis in the original disclosure. MPEP 2173.05(i) states that “[i]he current view of the courts is that there is nothing inherently ambiguous or uncertain about a negative limitation. So long as the boundaries of the patent protection sought are set forth definitely, albeit negatively, the claim complies with the requirements of 35 U.S.C. 112, second paragraph.” Additionally, “[f]unctional language does not, in and of itself, render a claim improper.” *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971). MPEP 2173.05(g). Nonetheless, and solely to advance prosecution, claims 1-11, 14, 17, 18, 22, 25-27, 30, 32, 34, and 36-47 are canceled without prejudice.

If there are any minor issues to be resolved before a Notice of Allowance is granted, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 595-5300
Facsimile: (503) 595-5301

By Gillian Gardner
Gillian Gardner
Registration No. 62,755